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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter of

Federal-State Joint Board on
Universal Service

CC Docket No. 96-45

To: The Commission

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COMMENTS OF VANGUARD CELLULAR SYSTEMS, INC.

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SUMMARY

Vanguard submits these supplemental comments in response to the Commission's public notice seeking comment on a series of specific questions on universal service issues. Vanguard's responses to the questions addressed in these comments are summarized below. In general, the Commission and the Joint Board should adopt a universal service framework that accomplishes the universal service goals set forth in the Telecommunications Act of 1996 by ensuring that all consumers obtain the benefits that will be created by competition.

Question 1

The Commission and Joint Board should presume that rates for services included in the current definition of universal service are affordable. The Commission should take official notice of its own subscribership reports as demonstrating that current rates throughout the nation (including high cost areas) are sufficiently low to promote widespread subscribership. In addition, the telephone service(s) upon which the Commission's current subscribership analysis is based should constitute the "core" services eligible for support under the new universal service rules.

Question 4

The Commission should recognize that, if a proper definition of "core" services is adopted in this proceeding, all carriers subject to universal service obligations are likely to have the technical ability to provide those services. To this end, the definition of core services must be defined narrowly to include only **basic** telecommunications services. Unless the universal service definition is narrowly tailored to reflect the services that are widely available to the American public, and to which a significant segment of the population subscribes, the Commission runs the risk of creating an unmanageable and costly universal service support system that unduly burdens carriers and inhibits the development of competition.

Question 7

The costs of inside wiring and establishing other types of connections within a school or library should be supported by universal service mechanisms under Section 254(h) of the Telecommunications Act. The lack of infrastructure within schools and libraries hinders these entities from accomplishing their educational missions and providing broad access to information to their students and patrons. In considering the extent to which the costs of inside wiring should be covered by federal universal service supports, however, the Commission and Joint Board should recognize that, in many instances, internal connections to classrooms will more easily and more cheaply be accomplished by the use of wireless technologies.

Question 10

As recognized in the *Notice*, partnerships between schools, libraries and their communities are important to both dissemination of information and access to distant resources. Accordingly, the Commission's rules must not discourage cooperation between schools, libraries and private networks that enhances the educational opportunities of our nation's youth. The Commission and Joint Board, however, must establish a means of policing use of subsidized services to ensure continued compliance with the Commission's rules and the goals of the Telecommunications Act of 1996.

Question 43

Under the Commission's universal service regime, all telecommunications providers offering core services to high cost areas or low income consumers, or advanced services to schools, libraries or health care providers, should be eligible for universal service support, regardless of the technologies they use. That certain carriers drawing from the universal service fund experience higher costs than other carriers should not make them ineligible for universal service support. So long as universal service support is made available to all carriers providing core services, on a customer-by-customer basis, the fact that particular carriers require "extra" subsidies is not problematic.

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COMMENTS OF VANGUARD CELLULAR SYSTEMS, INC.

Vanguard Cellular Systems, Inc. ("Vanguard"), by its attorneys, files these comments in response to a supplemental notice issued in the above-referenced docket on July 3, 1996.^{1/} The recommendations made herein are intended to ensure that: (1) the basic telecommunications needs of all Americans are satisfied; and (2) the Commission's universal service rules do not unreasonably burden or discriminate against any group of telecommunications carriers. As described below and in Vanguard's earlier comments in this proceeding, it is vital for the Commission and Joint Board to adopt rules that encourage competition for customers who use subsidized services.^{2/} As several Commissioners noted yesterday when adopting the rules in the

^{1/} See *Public Notice*, "Common Carrier Bureau Seeks Further Comment on Specific Questions in Universal Service Notice of Proposed Rulemaking," DA 96-1078 (released July 3, 1996).

^{2/} See *Comments of Vanguard Cellular Systems, Inc.*, Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (filed April 12, 1996); *Reply Comments of Vanguard Cellular Systems, Inc.*, Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (filed May 8, 1996).

local competition proceeding, encouraging such competition is the best way to minimize universal service subsidies and maximize consumer benefits.³

QUESTIONS

1. **Is it appropriate to assume that current rates for services included within the definition of universal service are affordable, despite variations among companies and service areas?**

The Commission and Joint Board should presume at the outset that the rates for services included in the current definition of universal service are affordable despite variations among companies. Indeed, the Commission should take official notice of its own subscribership reports as record evidence demonstrating that current rates throughout the nation (including high cost areas) are sufficiently low to promote widespread subscribership.⁴ To the extent that telephone service is not affordable for some individuals because of income constraints, it would be far more efficient to target subsidies to that relatively small group, through programs such as Link-Up and Lifeline, than to undertake a generic program to increase the subsidies for telephone service generally. Similarly, to the extent that high costs may render phone service unaffordable in some limited areas of the country, the best solution is to target subsidies to the few geographic regions where costs are high.

^{3/} See, e.g., Statement of Commissioner James H. Quello, CC Dkt. No. 96-98, rel. Aug. 1, 1996 ("As competition proliferates and prices fall, economic growth will also occur, and that too will benefit all of us.").

^{4/} See, e.g., *Telephone Subscribership in the United States*, Alexander Belinfante, Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission (released June 1996) (estimating that 93.8% of all households in the United States have telephone service).

Moreover, the Commission and Joint Board should view the telephone service(s) upon which its subscribership analysis is based as the "core" services eligible for universal service support. As discussed more fully below, the Commission and Joint Board should establish a narrow definition of "core" services, as it revises its universal service rules. Ensuring that all Americans are afforded access to basic telephone service (*e.g.* Plain Old Telephone Service with limited technological upgrades) will accomplish the Commission's universal service goals without overburdening the newly revised system, or imposing substantial costs on emerging service providers in increasingly competitive telecommunications markets.

4. **What are the effects on competition if a carrier is denied universal service support because it is technically infeasible for that carrier to provide one or more of the core services?**

If the Commission adopts a proper definition of "core" services in this proceeding, carriers subject to universal service obligations will never find that they are unable to provide a core service because it is "technically infeasible." Universal service support should be made available for the provision of services that can be offered on any network providing two-way telecommunications service, regardless of the choice of technologies.

It is critical that the definition of core services be defined narrowly to include **basic** telecommunications services. Unless the universal service definition is narrowly tailored to reflect the services that are widely available to the American public, and to which a significant segment of the population subscribes, the Commission runs the risk of creating an unmanageable and costly universal service support system that unduly burdens carriers and inhibits the development of competition.

As proposed in the *Notice*, core services receiving universal service support should include: (1) voice grade access to the public switched network, with the ability to place and receive calls; (2) touch tone; (3) single party service; (4) access to emergency services (*e.g.*, 911); and (5) access to operator services.⁵ Because these functionalities do not demand extensive or costly equipment, system architecture or engineering, all carriers seeking universal service support should be technically equipped to provide the service.

Defining the required services narrowly will be beneficial for several reasons. First, and as this question implicitly recognizes, the more services a carrier is required to offer to become eligible for universal service funding, the fewer carriers will be eligible and the less competition will exist for universal service customers. This will harm both competitors and consumers who otherwise could enjoy reduced rates and the other benefits of competition. Second, a narrow definition will reduce the size of the required subsidy by limiting the costs that go into the subsidy calculation. Finally, a narrow definition of universal service will leave room for expansion over time as other services become more integral to basic telecommunications. Trying to decide today whether any service other than the ones defined above will become sufficiently ubiquitous to be a "universal service" is risky at best.

⁵/ See *Notice of Proposed Rulemaking and Order Establishing Joint Board*, In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45 at ¶16 (adopted and released March 8, 1996) ("*Notice*").

7. **Does Section 254(h) contemplate that inside wiring or other internal connections to classrooms may be eligible for universal service support of telecommunications services provided to schools and libraries? If so, what is the estimated cost of the inside wiring and other internal connections?**

The unique communications needs of schools and libraries are difficult to address, in part, because of poor inside wiring and the lack of internal connections that link classrooms to each other and to outside telecommunications facilities and informational resources. In many schools, for instance, telecommunications facilities are located only in limited areas, such as administrative or medical offices. The remaining areas, including the individual classrooms, are not equipped to permit access to telecommunications and/or informational services. This lack of infrastructure hinders schools and libraries from accomplishing their educational missions and providing broad access to information to their students and patrons. The costs of inside wiring and establishing other types of connections within a school or library, therefore, should be supported by universal service mechanisms under Section 254(h) of the Telecommunications Act.

Nevertheless, in considering the extent to which the costs of inside wiring should be covered by federal universal service supports, the Commission and Joint Board should recognize that, in many instances, internal connections to classrooms will more easily and more cheaply be accomplished by the use of wireless technologies. As wireless digital systems become increasingly affordable through both technical advancement and increased competition, they will offer real cost and access advantages over traditional wired systems. Indeed, the development of wireless PBX technologies has ushered in an era where costly efforts to run wire to each classroom may become unnecessary.

Vanguard's extensive experience with "wireless PBX" arrangements suggests that wireless technologies may offer significant operational advantages over traditional wired telephony. For instance, wireless systems give users the ability to make and receive calls when they are away from their desks. This ability could allow a teacher to call the school nurse or a security guard from the lunchroom or the playground. It also could permit libraries to provide access to databases, card catalogs or other services without tying librarians to their desks. The universal service rules adopted in this docket should support the provision of these services as efficient alternatives to the costly wiring of schools and libraries.

10. **Should the resale prohibition in Section 254(h)(3) be construed to prohibit only the resale of services to the public for profit, and should it be construed so as to permit end user cost based fees for services? Would construction in this manner facilitate community networks and/or aggregation of purchasing power?**

As recognized in the *Notice*, partnerships between schools, libraries and their communities are important to both dissemination of information and access to distant resources.^{6/} Accordingly, the Commission's rules must not discourage cooperation between schools, libraries and private networks that enhances the educational opportunities of our nation's youth.

It is critical, however, that the Commission's universal service rules also include safeguards against potential abuse. The Commission's rules must ensure that parties not eligible for universal service support do not utilize communications services and facilities made available through universal service mechanisms for purposes unrelated to the Commission's universal service goals.^{7/} In the context of this question, the Commission must prevent entities cooperating

^{6/} See *Notice* at ¶86

^{7/} This is not an abstract issue. For instance, Vanguard has experienced abuses when it has made services available at discounted rates to public safety and health organizations. In

or collaborating with schools and libraries from using subsidized communications services or facilities for their own purposes or in a manner that does not directly benefit universal service eligibles. The Commission also should prevent arrangements that permit any entity other than the eligible institution and people directly participating in eligible programs from benefitting from universal service funds.

The dangers of failing to provide for such safeguards are substantial. For instance, permitting unrestrained or unchecked use of communications networks financed by universal service subsidies will increase the costs of establishing and maintaining those networks, which will increase subsidy needs and potentially increasing the size of the universal service fund to a point where carrier contributions simply become too high. This could lead to a collapse of the funding system. Conversely, if the funds available to eligible institutions are limited, permitting non-eligible parties to use subsidized services could prevent eligible entities from obtaining the resources that Congress expected them to get. The Commission must require certifications from universal service recipients confirming that subsidized services or functionalities are being used only as permitted by the Commission's rules. Moreover, the Commission and Joint Board must establish a means of policing use of subsidized services to ensure continued compliance with the Commission's rules and the goals of the Telecommunications Act of 1996.

those cases, friends and relatives of eligible individuals used services intended for public safety and health purposes, to the detriment of both Vanguard and the entities that were supposed to benefit from the discounts

43. **Should there be recourse for companies whose book costs are substantially above the costs projected for them under a proxy model? If so, under what conditions (for example, at what cost levels above the proxy amount) should carriers be granted a waiver allowing alternative treatment? What standards should be used when considering such requests?**

Under the Commission's universal service regime, all telecommunications providers offering core services to high cost areas or low income consumers, or advanced services to schools, libraries or health care providers, should be eligible for universal service support. The Commission should not discriminate among service providers or limit the ability of universal service recipients to take service from carriers based upon the technologies they use.⁸ A non-discriminatory approach promotes consumer choice and prevents the Commission's universal services mechanisms from insulating inefficient technologies or services from competition. Moreover, encouraging such competition directly benefits consumers by offering them improved services, and directly benefits telecommunications carriers by decreasing contribution costs associated with supporting services that are costly and/or outdated.

That certain carriers drawing from the universal service fund experience higher costs than other carriers should not make them ineligible for universal service support. So long as universal service support is made available to all carriers providing core services, on a customer-by-customer basis, the fact that particular carriers require "extra" subsidies is not problematic. Under such circumstances, well managed, efficient companies will emerge over time as the

⁸/ Similarly, the Commission should not base universal support eligibility on the outcome of an auction process. Designating a carrier to provide service pursuant to a bidding process: (1) reduces consumer choice by limiting the number of available carriers that can provide comparable service within a given region; and (2) provides little incentive for the designated carrier to lower its costs on an ongoing basis. Making universal service subsidies available to all eligible services providers, in contrast, spurs competition and permits customers to choose a telecommunication carrier that best suits their individual needs.

preferred providers of service. The market efficiencies resulting from broad participation will be achieved without artificially limiting consumer choice or making difficult, complex, and potentially arbitrary, cost determinations that categorize carriers and limit their ability to adapt to customer needs.

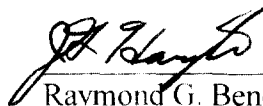
CONCLUSION

Incorporating the recommendations made herein in the Commission's support mechanisms will ensure that the Commission's universal service goals are achieved without establishing a complicated framework subject to manipulation and abuse. At the same time, adopting these recommendations will encourage competition and will assure that customers can obtain universal service at affordable rates. For all these reasons, Vanguard Cellular Systems, Inc. respectfully requests that the Commission and the Joint Board adopt rules consistent with these comments and the pleadings it previously submitted in this docket.

Respectfully submitted,

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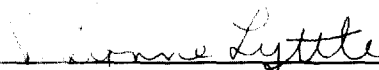
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